HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.3744 of 2000

Dated 2nd day of July, 2007

Between:

G. Thimma Reddy .. Petitioner

And

The Superintendent, Excise,
Medak District
and another .. Respondents

O R D E R:

This writ petition is filed seeking a mandamus to declare the Proceedings No.B/1596/99, dated 18.1.2000 by which the 2nd respondent proposes to auction the petitioner's lands of an extent of Ac.5.13 gts. and Ac.7.17 gts. in S.Nos.77/1 and 78 respectively situated in Mulugu village, as arbitrary and illegal.

The petitioner asserts that he is the owner of an extent of Ac.5.13 guntas in S.No.77/1 and Ac.7.17 guntas in S.No.78 situated in Mulugu village, Medak District and in possession

and enjoyment of them. But, to his utter surprise, the 2nd respondent-Mandal Revenue Officer issued a Notice, dated 18.1.2000 by way of getting it affixed at the office of the Gram Panchayat. According to the notice, one Sai Reddy of Mulugu village is in arrears to a tune of Rs.8,50,764/-, and hence, it necessitated the 2nd respondent to auction the land of an extent of Ac.10.00 guntas in S.No.99/1/37 including the lands of the petitioner and the date of auction is mentioned as 8.3.2000. Now, the grievance of the petitioner is that he does not know who Sai Reddy is and he has nothing to do with his excise business and the 2nd respondent unauthorizedly included his lands in the auction notice.

In spite of the fact that notices were served on the respondents, they have not chosen to file counter affidavit.

Having heard the learned counsel for the petitioner and inasmuch as the affidavit averments are neither denied nor controverted, this Court is of the view that when Sai Reddy who is an Excise Contractor, is in arrears to a tune of Rs.8,50,764/-, the 2nd respondent cannot propose to auction the lands belonging to the petitioner. As it is asserted that the petitioner is the absolute owner of the lands of an extent of Ac.5.13 guntas in S.No.77/1 and Ac.7.71 guntas in S.No.78 and he has nothing to do with Sai Reddy and his excise business, the respondents are hereby directed not to interfere with the petitioner's lands of an extent of Ac.5.13 guntas in S.No.77/1 and Ac.7.71 guntas in S.No.78, but insofar Ac.10.00 guntas of land and a tiled house in S.No.99/1/37 are concerned, the petitioner is not claiming any title over them, and the respondents may proceed with them.

In the result, the writ petition is allowed. No costs.

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02.07.2007

bcj